

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the
Liquidation of Bernard L. Madoff Investment
Securities LLC,

Plaintiff,

v.

UBS AG, *et al.*

Defendants.

IRVING H. PICARD, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC
and the Chapter 7 Estate of Bernard L. Madoff,

Plaintiff,

v.

UBS EUROPE SE (f/k/a UBS
(LUXEMBOURG) S.A.), *et al.*

Defendants.

No. 08-01789 (CGM)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-04285 (CGM)

Adv. Pro. No. 10-05311 (CGM)

ORDER WITHDRAWING LETTERS OF REQUEST

WHEREAS, on May 18, 2016, this Court So Ordered a Stipulation and Order Authorizing International Discovery in Adversary Proceeding No. 10-04285 (the “Luxalpha Action”), which authorized the taking of discovery under the Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters (the “Hague Evidence Convention”). *See* ECF No. 228;

WHEREAS, on February 21, 2018, the Trustee filed an Application for the Issuance of Letters of Request pursuant to Chapter 1 of the Hague Evidence Convention. *See* ECF No. 240;

WHEREAS, on March 6, 2018, this Court signed an Order Issuing Letters of Request for the Taking of Evidence Abroad in Civil or Commercial Matters. *See* ECF No. 242. Those letters of request were directed to UBS Europe SE, Luxembourg Branch, UBS Fund Services (Luxembourg) S.A., and UBS Third Party Management Company S.A. (collectively the “UBS Luxembourg Defendants”) (the “Luxalpha Letters of Request”);

WHEREAS, on December 27, 2022, this Court denied the UBS Luxembourg Defendants’ Motion to Dismiss, and on January 24, 2023, this Court denied the UBS Luxembourg Defendants’ Motion for Partial Reargument or Reconsideration of Order Denying Their Motion to Dismiss the Second Amended Complaint. *See* ECF Nos. 347 and 356;

WHEREAS, on May 9, 2023, the Trustee filed the Declaration of Gonzalo S. Zeballos Requesting Conference Pursuant to Local Bankruptcy Rule 7007-1 (the “Declaration”), in which the Trustee sought a Court conference to request that the Court issue an order withdrawing the Luxalpha Letters of Request so that the Trustee could proceed with party discovery under the Federal Rules of Civil Procedure as to the UBS Luxembourg Defendants. *See* ECF No. 371;

WHEREAS, the UBS Luxembourg Defendants opposed the relief sought in the Declaration as set forth in their May 15, 2023 letter to the Court. *See* ECF No. 374;

WHEREAS, on May 17 and 24, 2023, the Court held discovery conferences to discuss the Trustee's application;

WHEREAS, during the conference on May 24, 2023, the Trustee's counsel stated that the Trustee would expand his request to the Court to include the withdrawal of pending letters of request issued in a parallel action, *Picard v. UBS SE Europe (f/k/a UBS (Luxembourg) S.A., et al.*, Adv. Pro. No. 10-05311 (the "Luxembourg Investment Fund Action"), to the same UBS Luxembourg Defendants ("Luxembourg Investment Fund Letters of Request") (*See* Adv. Pro. No. 10-05311, ECF Nos. 253 and 255); and

WHEREAS, having reviewed the Parties' submissions, and for good cause shown; it is hereby:

ORDERED that the Luxalpha Letters of Request are withdrawn;

ORDERED that the Luxembourg Investment Fund Letters of Request are withdrawn; and it is further

ORDERED that the Trustee shall submit a copy of this Order to the appropriate judicial authorities of Luxembourg informing them of this Court's withdrawal of the Luxalpha Letters of Request and the Luxembourg Investment Fund Letters of Request.

* * *

The Bankruptcy Court expresses its gratitude to the judicial authorities of Luxembourg for their assistance to date with the Luxalpha Letters of Request and the Luxembourg Investment Fund Letters of Request and assures the judicial authorities of Luxembourg that it stands ready and

willing to render similar assistance to the Luxembourg courts when requested. The Bankruptcy Court takes this opportunity to extend to the Luxembourg courts its highest consideration.

**Dated: June 1, 2023
Poughkeepsie, New York**



/s/ Cecelia G. Morris

**Hon. Cecelia G. Morris
U.S. Bankruptcy Judge**